

Applicants: Nalan Utku and Steven Richard Blumberg
Serial No.: 10/583,291
Filed: June 16, 2006
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REMARKS

On page 2 of the January 14, 2008 Office Action, the Examiner required restriction under PCT Rule 13.1 contending that the inventions identified by the Groups I-II below are not so linked as to form a single general inventive concept.

I. Claims 16-17, 21, 23 and 27, drawn to a fusion protein comprising a human biliary glycoprotein (CEACAM1) fragment and a composition comprising the fusion protein.

II. Claims 22, 24-26 and 28-29 drawn to a method for preventing or treatment of a mammal subject with rheumatois arthritis or multiple sclerosis comprising administering the fusion protein.

The Examiner asserted that the inventions listed as Groups I-II lack the same or corresponding special technical features. Specifically, the Examiner asserted that the technical feature of this application is a CEACAM1-Fc fusion protein. The Examiner asserted that the technical feature does not "contribute over prior art" [sic] because Chen et al. teach CEACAM1-Fc fusion protein. Based on the foregoing, the Examiner concluded that unity of invention under PCT Rule 13.1 does not exist.

In response, applicants hereby elect, with traverse, Group I, i.e. claims 16-17, 21, 23 and 27, drawn to a fusion protein comprising a human biliary glycoprotein (CEACAM1) fragment and a composition comprising the fusion protein.

Applicants disagree with the Examiner's characterization of Chen et al., *The Journal of Immunology* 2004 (March) 172:3535 as prior art. Specifically, applicants note that the subject application is a 371 National Stage of PCT International Application No. PCT/EP2004/014435, filed December 17, 2004, which claims priority of

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European Patent Application No. 03028968.0 filed December 17, 2003. Applicants maintain that the subject application is entitled to the December 17, 2003 priority date and as such, Chen et al. (2004) is not prior art. Accordingly, the special technical feature identified by the Examiner of "CEACAM-Fc fusion protein" is a "special technical feature" and applicants maintain that Groups I and II relate to a single general inventive concept under PCT Rule 13.1.

Even if the Examiner mistakenly continues to adhere to the restriction requirement applicants note that the methods of nonelected Group II relate to the use of the elected Group I fusion protein. Therefore, applicants are entitled to rejoinder of the claims of Group II once the claims of Group I are allowable so long as the claims of Group II are commensurate in scope with those of Group I.

In view of the preceding remarks, applicants respectfully request that the Examiner reconsider and withdraw the requirement for restriction under PCT Rule 13.1.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

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No fee, other than the enclosed \$1,115.00 fee for a five-month extension of time, is deemed necessary in connection with the filing of this Communication. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

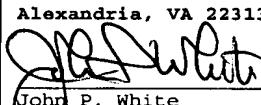
Respectfully submitted,



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